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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,818	02/22/2002	Thomas Dean Gulley	46893/DRK/S1050	9926

23363 7590 09/16/2003  
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EXAMINER
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KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/080,818	GULLEY, THOMAS DEAN
	Examiner Michael J Kyle	Art Unit 3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 June 2003.

2a) This action is **FINAL**.                                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Flamme (U.S. Patent No. 5,561,886). Flamme discloses a cylindrical female barrel portion (2) and first and second cylindrical male barrel portions (11, 12) formed from a single section of material. The female barrel portion has an outside surface and interior bore, while the male barrel portions have pin extension (13, 14) and pin ends substantially as claimed. The female portion comprises seamless cylindrical tubing (tubular part of 20). The two male portions are inserted into the interior bore.

3. With respect to claim 20, Flamme discloses the main body portion of each male portion and female portion to be completely cylindrical (each body portion of Flamme contains a complete cylinder), and that the portions are adapted for welding to objects. The examiner asserts that the flanged portions (15, 16, and 22) can be welded to an object.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4, 5, 9, 12-14, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flamme in view of Kent et al (U.S. Patent No. 5,774,938). Flamme discloses a cylindrical female portion (20) and first and second cylindrical male barrel portions (11, 12). The female barrel portion has a sidewall (21), outside surface, axial bore, and interior wall surface while the male barrel portions have a main body portion (25), outer surface, pin extensions (13), and pin ends (13) substantially as claimed. The female portion comprises seamless cylindrical tubing (tubular part of 20). The two male portions are identical and are rotatably received in the female portion. Flamme fails to disclose an aperture within the female portion for a lubricant fitting.

6. Kent et al teaches a female portion (10) with an aperture for a lubricant fitting (58) for the purpose of providing the interior spaces of the cylindrical portions of the hinge with grease. Grease protects carious assemblies from outside contaminants. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a lubricant fitting into an aperture within Flamme's female member in order for the hinge to retain lubrication, which protects the assembly from outside contaminants (col. 11, line 57 – col. 12, line 3).

7. With respect to claims 18 and 19, Flamme discloses the main body portion of each male portion and female portion to be completely cylindrical (each body portion of Flamme contains a complete cylinder), and that the portions are adapted for welding to objects. The examiner asserts that the flanged portions (15, 16, and 22) can be welded to an object.

8. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flamme in view of Kent et al as applied to claim 1 above, and further in view of Huppert, Sr. (U.S. Patent No. 5,771,538). The combination of Flamme and Kent fails to disclose the lubricant fitting as threadably engageable with the female barrel portion.

9. Huppert teaches a lubricant fitting (16) which is threadably engaged (col. 2, lines 7-8) with the barrel portion (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to fasten the lubricant fitting with threads to the female barrel portion so that one can readily remove a grease removing instrument without the lubricant fitting falling off (col. 2, lines 13-14).

10. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flamme in view of Kent et al as applied to claim 1 above, and further in view of Dodge (U.S. Patent No. 132,147). The combination of Flamme and Kent et al fails to disclose bevels as claimed by applicant.

11. Dodge teaches the ends of a female barrel portion as beveled (c) and the main portions of the male portions as also beveled (1) so that when the portions are connected together, the joint is so closed as to exclude rain and dust which would otherwise get into the socket and displace the lubricant and wear away the surfaces (col. 2, last full paragraph). It would have been obvious to one of ordinary skill in the art at the time the invention was made to bevel the edges of Flamme's portions in order to prevent dust and rain from entering the hinge.

12. Claims 6, 7, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flamme in view of Kent et al as applied to claim 1 above, and further in view of Simpson (U.S. Patent No. 470,514). Flamme discloses the pin extensions of the male portions as machined at

one end thereof but fails to disclose using bar stock or tubing stock to make the male barrel portions as claimed.

13. Simpson teaches male portions (A, B) constructed from bar or tubing stock. The selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use bar stock or tube stock for Flamme's invention since bar stock and tube stock are known in the art and choosing these materials is a design consideration within the skill of the art.

14. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flamme in view of Kent et al as applied to claim 1 above, and further in view of Valenti et al (U.S. Patent No. 4,573,239). The combination of Flamme and Kent et al fails to show the first and second male portions to be identical.

15. Valenti et al teaches a hinge comprising a female portion (24) and first and second male portions (16c, figure 11). The male portions are identical. Making the male portion identical simplifies manufacturing and reduces cost as there is only one design of a male portion to manufacture, and allows for the male portions to be interchangeable with one another. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the first and second male portions of Flamme identical in order to simplify manufacturing and reduce costs.

16. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valenti et al in view of Kent et al. Valenti et al discloses a female barrel portion (24) with an axial bore

extending end to end, a first and second male barrel portion (16c) having a main body portion with an outer surface, and a pin extension (74) that is sized to be received in the female barrel portion substantially as claimed. Valenti et al fails to disclose a lubricant fitting affixed within an aperture in the sidewall of the female portion.

17. Kent et al teaches a female portion (10) with an aperture for a lubricant fitting (58) for the purpose of providing the interior spaces of the cylindrical portions of the hinge with grease. Grease protects carious assemblies from outside contaminants. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a lubricant fitting into an aperture within Flamme's female member in order for the hinge to retain lubrication, which protects the assembly from outside contaminants (col. 11, line 57 – col. 12, line 3).

18. With respect to claim 8, Valenti et al discloses the male portions to be identical.

#### *Response to Arguments*

19. Applicant's arguments filed June 16, 2003, have been fully considered but they are not persuasive.

20. With respect to claim 17, applicant argues that the barrel portion is not formed from a single section of material. Examiner asserts that the barrel portions (11 and 12) are formed from a single section of material. The barrel portions (11 and 12) are formed from a single section of material and then combined with the pin portions (13 and 14), as noted by applicant in the arguments. Flamme meets all of the limitations set forth in claim 17 in that Flamme discloses

each male barrel portion (11, 12) to be formed from a single section of material, and having a pin extension (13, 14).

21. With respect to claims 1, 4, 5, 8, 9, and 12-14, applicant argues that no motivation is provided to combine Kent et al with Flamme, and that Kent et al "is clearly not in the field of hinges". The examiner references figures 5 and 9 of Kent et al to clearly show that the invention of Kent et al is a hinge. The examiner further asserts that there is motivation provided by Kent et al to make the combination with Flamme as discussed in the rejection above. Furthermore, this motivation is sufficient to make such a combination.

22. Applicant's arguments with respect to claim 8 have been considered but are moot in view of the new ground(s) of rejection. Claim 8 now stands rejected under 103(a) as being unpatentable over Flamme in view of Kent et al, and further in view of Valenti et al, and also over Valenti et al in view Kent et al.

23. With respect to claims 2 and 10, the applicant argues that Dodge discloses an arrangement to exclude rain and dust, rather than prevent paint from accumulating around a groove. The examiner notes that the Dodge reference meets all the structural limitations set forth in the claims.

24. Examiner notes that the remainder of the claims rely on the argument that the base claims present patentable subject matter. However, the rejections of the base claims have been maintained as discussed above.

***Conclusion***

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25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

26. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

27. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

mk



Anthony Knight  
Supervisory Patent Examiner  
Technology Center 3600